

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ABEL MANUELITO CHAVEZ,

Petitioner,

vs.

No. 1:23-cv-00107-KWR-GJF
No. 1:21-cr-01519-KWR-GJF-1

UNITED STATES,

Respondent.

**ORDER GRANTING AMENDED MOTION
TO VACATE SENTENCE PURSUANT TO 28 U.S.C. § 2255**

THIS MATTER IS BEFORE THE COURT ON Petitioner's Amended Motion to Vacate Sentence Pursuant to 28 U.S.C. § 2255 filed February 6, 2023. Doc. 2. In his Motion, Petitioner sought to vacate his sentence based on ineffective assistance of counsel for failure to object to his total criminal history points as he contended three points should not have been assessed for one of his state sentences. He sought to have his judgment vacated and be resentenced without these three points, which would result in a lower sentencing guideline range. The United States filed its Response [Doc. 6] on March 14, 2023, conceding that Petitioner is entitled to the relief as requested. The Court having reviewed the Petition and the Response, and noting the United States has conceded Petitioner is entitled to relief, the Court finds the Petition should be granted.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 2255, the Petition is granted, Petitioner's judgment in *United States v. Abel Chavez*, 21-cr-01519-KWR-GJF is hereby **VACATED**.

IT IS FURTHER ORDERED that Petitioner shall be resentenced in that cause number following the preparation of a revised presentence report.

IT IS SO ORDERED.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE

SUBMITTED BY:

/s/ Ryan J. Villa
RYAN J. VILLA
Counsel for Petitioner

APPROVED:

/s/ Matthew Nelson
MATTHEW NELSON
Counsel for Respondent